

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

TYRONE KEYS,

Plaintiff,

v.

The BERT BELL/PETE ROZELLE NFL
PLAYER RETIREMENT PLAN, and the
NFL PLAYER DISABILITY &
NEURCOGNITIVE BENEFIT PLAN,

Defendants.

Case No. 8:18-cv-2098-CEH-JSS

DEFENDANTS' MOTION TO VACATE SCHEDULING ORDER

Defendants the Bert Bell/Pete Rozelle NFL Player Retirement Plan and the NFL Player Disability & Neurocognitive Benefit Plan, by and through their undersigned counsel, move the Court for an order vacating the Court's November 7, 2018 Case Management and Scheduling Order (ECF 20). Defendants further request that the Court allow the parties to file an amended case management report, within 20 days after Defendants answer Plaintiff's forthcoming, amended complaint, that sets forth the parties' positions on new case-related deadlines. In support of this motion, Defendants state as follows:

- 1) Plaintiff Tyrone Keys filed his Complaint on August 22, 2018 (ECF 1).
- 2) On August 29, 2018, the Court issued its Related Case Order and Track Two Notice (ECF 4), which among other things instructed the parties to submit a case management report that set forth proposed dates for amending pleadings, conducting discovery, and filing dispositive

briefs. The parties submitted the requested case management report on October 23, 2018 (ECF 18).

3) On November 7, 2018, the Court issued its Case Management and Scheduling Order (ECF 20) that adopted the parties' proposed schedule.

4) In the interim, Defendants filed a motion to dismiss two of the three counts stated in Plaintiff's Complaint (ECF 19, filed 10/29/18).

5) On May 28, 2019, the Court issued an order granting in part and denying in part Defendants' motion to dismiss, and granting Plaintiff leave to file an amended complaint within 14 days (ECF 28).

6) Plaintiff has informed Defendants that he intends to file an amended complaint by June 11, 2019.


7) When Plaintiff files his amended complaint, Defendants will either (1) file a motion to dismiss the amended complaint, or (2) file an answer and one or more counterclaims.

8) In light of foregoing, new deadlines will be necessary for discovery on Defendants' counterclaim(s), dispositive motions (currently due June 7, 2019), the preparation and filing of a joint pre-trial statement, the filing of pre-trial motions and briefs, and trial. Defendants believe that it would be most efficient to set the deadlines after Defendants answer Plaintiff's amended complaint, because by that point all issues will be joined by Plaintiff's amended complaint and Defendants' answer and counterclaim(s).

WHEREFORE, Defendants respectfully request that the Court (1) vacate the Case Management and Scheduling Order issued on November 7, 2018 (ECF 20), and (2) direct the parties to file an amended joint case management report, within 20 days after Defendants answer

Plaintiff's forthcoming, amended complaint, that sets forth the parties' positions on new case-related deadlines.

Dated: May 31, 2019



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CERTIFICATION OF PRE-FILING CONFERENCE

Pursuant to Local Rule 3.01(g), the undersigned counsel represents that, prior to filing this motion, counsel for Defendants conferred with counsel for Plaintiff in a good faith effort to resolve the issues raised by the motion. However, the parties were unable to agree on the resolution proposed by the instant motion.

Dated: May 31, 2019



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